

**Public Safety Team Analysis of
Nature Based Outdoor Activities on
Projects Purchased with
Stewardship Grant Funds**

Rev. April 2011

NOTE TO DNR STAFF: This completed form will be attached to the WEPA+NBOA notice that the DNR will publish when considering a request for Stewardship grant funding. Do not list location information for the subject property or the seller's name because WI courts have held that this information is confidential until land ownership has changed hands. CF Staff completes the project proposal section prior to submitting to public safety team for review.

PUBLIC SAFETY REVIEW TEAM

William Yearman
Regional Recreational Safety Warden

Date

Richard Rosen
Regional Warden Supervisor

Date

[Signature]

7/30/13

[Signature]

07/30/2013

PROJECT DESCRIPTION

Applicant/ Sponsor: City of Eau Claire

Year of Application: 2013

Project Name:
97 West Madison Street Land Acquisition

Primary Purpose: Habitat Areas Local Parks
 Natural Areas Urban Rivers
 State Trails Urban Greenspace
 Streambank Protection

Project Description:

The City of Eau Claire is proposing to acquire 1.3 acres of land within the City of Eau Claire limits. The property is located at 97 West Madison Street, Eau Claire, WI. This project involves the acquisition of land needed to extend the development of the urban trail system that connects with the Chippewa Valley State Trail System.

FINDINGS OF FACT:

Proposed NBOA Prohibition or Restrictions

HUNTING			
	Gun Prohibition/Restriction	Archery Prohibition/Restriction	List Dates/Seasons (opening and closing)
Waterfowl	Yes	Yes	
Small Game	Yes	Yes	
Turkey	Yes	Yes	
Large Game	Yes	Yes	

Public Safety Team Narrative: *The site is located on the Chippewa River in downtown Eau Claire. The property is across the river from Phoenix Park which is a highly developed waterfront park with businesses, bike/hiking trails and the site for summer concerts and a farmer's market. The site is bordered by two major roads and is near both the Eau Claire County Court House and the Mayo Clinic Hospital. The location in downtown Eau Claire as well as the proximity to roads and a Hospital make the site unsuitable for safe hunting.*

Parcel Size, Shape, and Topography: Describe the size, shape, and topography of the parcel and how it relates to public safety for this activity on this site. The site is a 1.3 acre parcel in the downtown section of the City of Eau Claire

Public Safety Factors Considered: Check all that apply.

- The sponsor is within its own municipality boundary
- Parcel is within 100 yards of building devoted to human occupancy
- Parcel is within 50 feet of the center line of highways & roads
- Parcel is within 1700 feet of school grounds, hospital, or sanatorium
- Ordinance exists –
 - Discharge or carrying a weapon
 - Hunting within a park
 - Throwing or shooting missiles, arrows, spears, etc.
- Parcel is subjected to a non-sponsor ordinance
- Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists.
- Parcel is adjacent to a public waterway.
- Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe: *The site is located on this Chippewa River in downtown Eau Claire. The property is across the river from Phoenix Park which is a highly developed waterfront park with businesses, bike/hiking trails and the site for summer concerts and a farmer's market. The site is bordered by two major roads and is near both the Eau Claire County Court House and the Mayo Clinic Hospital.*

Other _____

Prohibition or Restriction Necessary to Protect Public Safety: Yes No

TRAPPING

Location	Prohibition/Restriction	List Dates/Seasons (opening and closing)
Upland	unkown	
Water	prohibited	

Public Safety Team Narrative: *Sec 9.76.120 of the City of Eau Claire ordinances prohibits trapping in any navigable waters within city limits. While this may be a user conflict issue I see no safety concern that requires this prohibition.*

Parcel Size, Shape, and Topography: Describe the size, shape, and topography of the parcel and how its relates to public safety for this activity.

No Water On Site

Public Safety Factors Considered: Check all that apply.

- The sponsor is within its own municipality boundary.
- Parcel is within 100 yards of building devoted to human occupancy and per s. NR 13.(1)(b)(12), the following traps are prohibited: conibear body gripping traps (with jaws wider than 60 sq. inches) and cable restraints.
- Ordinance exists that prohibits trapping or some type of trapping.
- Parcel is subjected to a non-sponsor ordinance
- Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists.
- Parcel is adjacent to a public waterway.
- Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe:

Other _____

Prohibition or Restriction Necessary to Protect Public Safety: Yes No

FISHING		
Method	Prohibition/Restriction	List Dates/Seasons (opening and closing)
Shore	None	
Boat	None	
Public Safety Team Narrative:		
Parcel Size, Shape, and Topography: Describe the size, shape, and topography of the parcel and how it relates to public safety for this activity.		
<input type="checkbox"/> No Water on Site <input type="checkbox"/> Public Safety Factors Considered: Check all that apply. <input type="checkbox"/> Ordinance exists – <input type="checkbox"/> _____ <input type="checkbox"/> Parcel is subjected to a non-sponsor ordinance <input type="checkbox"/> Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists. <input type="checkbox"/> Parcel is adjacent to a public waterway. <input type="checkbox"/> Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe: <input type="checkbox"/> Other _____		
Prohibition or Restriction Necessary to Protect Public Safety: <input type="checkbox"/> Yes <input type="checkbox"/> No		

HIKING		
Location	Prohibition/Restriction	List Dates (opening and closing)
On-Trail	None	
Off-Trail	None	
Public Safety Team Narrative:		
Parcel Size, Shape, and Topography: Describe the size, shape, and topography of the parcel and how it relates to public safety for this activity.		
Public Safety Factors Considered: Check all that apply. <input type="checkbox"/> Parcel is subjected to a non-sponsor ordinance <input type="checkbox"/> Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists. <input type="checkbox"/> Parcel is adjacent to a public waterway. <input type="checkbox"/> Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe: <input type="checkbox"/> Other _____		
Prohibition or Restriction Necessary to Protect Public Safety: <input type="checkbox"/> Yes <input type="checkbox"/> No		

CROSS COUNTRY SKIING

Type of Trail	Prohibition/Restriction	List Dates (opening and closing)
Off-Trail (un-groomed)	None	
On-Trail (un-groomed)	None	
On-Trail (groomed)	None	

Public Safety Team Narrative:

Parcel Size, Shape, and Topography: Describe the size, shape, and topography of the parcel and how it relates to public safety for this activity.

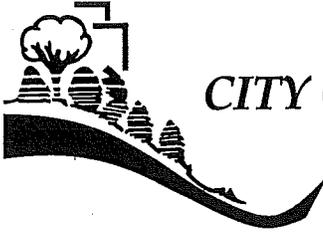
Public Safety Factors Considered: Check all that apply.

- Parcel is subjected to a non-sponsor ordinance
- Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists.
- Parcel is adjacent to a public waterway.
- Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe:
- Other _____

Prohibition or Restriction Necessary to Protect Public Safety:

Yes

No



CITY OF EAU CLAIRE

Office of the City Attorney

Phone: (715) 839-6006

Fax: (715) 839-6177

December 4, 2013

Ms. Beth Norquist
WI Department of Natural Resources
1330 West Clairemont Avenue
Eau Claire, WI 54703

Dear Ms. Norquist:

Thank you for the recent notification that the City of Eau Claire has been selected to tentatively receive a \$180,705 grant from the State of Wisconsin Department of Natural Resources Stewardship Fund for the acquisition of a 1.3 acre parcel located at 97 W. Madison Street in Eau Claire. We understand the appraised value of the property is \$ 360,000, and that the City of Eau Claire will be responsible for the balance of the funding required to purchase the property.

This property is contiguous to the Chippewa River and will be utilized to expand the City's multi-modal Chippewa River trail system. The property also is adjacent to Madison Street, a major arterial into the North Barstow portion of downtown Eau Claire, and has residential homes to its south and commercial office development and the Mayo Eau Claire campus to its west.

We understand that the Natural Resources Board, the funding approval body for Stewardship Grants, now requires all Stewardship grant acquired parcels located on waterfront property, to allow five nature-based outdoor activities (NBOA's) – cross country skiing, trapping, fishing, hiking and hunting. Most of the activities will be ideally suited to this property, but, not hunting due to size and urban location. The City of Eau Claire prohibits, by ordinance, hunting, for safety reasons, in its public parks as noted here:

Chapter 6.25

HUNTING

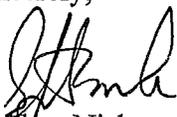
Section: 6.25.010 Hunting. No person shall hunt any fur-bearing animal or bird within the city limits. This section shall not apply to bow and arrow hunting of deer when it has been determined by the director of parks and recreation that such hunting is necessary for proper game management or to protect parks or other property. Additionally, a permit for such hunting must be issued by the chief of police stating that the activity would not pose a threat to health and safety in the area where such hunting shall take place. (Ord. 5222, 1992).

Beth Norquist
December 4, 2013
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The City desires to continue with the process of receiving the grant, but desires an exemption from the requirement to allow hunting on this 1.3 acre parcel of land for safety reasons.

We look forward to working with you in securing the Stewardship Grant with the condition that hunting not be allowed.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Nick", written over the typed name.

Stephen Nick
Eau Claire City Attorney

SCN:jw

Cc: Lavane J. Hessler, WI DNR
Phil Fieber, City of Eau Claire
Rebecca Noland, City of Eau Claire

in any bulk gunpowder, blasting powder, dynamite, nitroglycerine, gasoline, benzine or denatured alcohol or any other explosive, combustible or inflammable substances of a like or similar nature, in any quantity in any building, structure or place within the city without first having obtained a written permit therefor from the chief of the fire department of the city, designating the building, structure or place where and specifying the quantity and prescribing the conditions and terms upon which the same shall be permitted to be kept, stored or handled within the city. (Prior code §15.8).

9.28.020 Violation--Penalty. Any person, firm, association or corporation, or any agent, servant or employee of any person, firm, association or corporation violating any of the provisions contained in such permit shall be punished by a fine of not less than five dollars, nor more than twenty-five dollars, besides the costs of the prosecution, and in default of payment thereof, by imprisonment in the county jail for not more than thirty days, unless the fine and costs are sooner paid. (Prior code §15.88).

Chapter 9.30

HUNTING

Sections:

- 9.30.010 Definitions.**
- 9.30.020 Hunting on city property.**
- 9.30.030 Penalty.**

9.30.010 Definitions. In this chapter, the following terms shall mean:

- A. "Hunt" or "hunting" means the pursuing, taking, catching or killing any wild animal or animals.
- B. "City property" means any property which is owned or leased by the City of Eau Claire including property in which the City of Eau Claire is a land contract vendee and all municipal easements. (Ord. 5549, 1995).

9.30.020 Hunting on city property. No person shall hunt or engage or assist in hunting on any city property except for fishing in designated areas. (Ord. 6545 §1, 2004; Ord. 5549, 1995).

9.30.030 Penalty. Any person violating any provision of this chapter shall, upon conviction, be subject to a forfeiture of not less than \$100 nor more than \$500 for each offense, and upon failure to pay the same shall be confined in the county jail for not more than 30 days. (Ord. 5549, 1995).

Chapter 9.32

FIREWORKS AND FIREARMS*

Sections:

- 9.32.010 Definition.**
- 9.32.020 Prohibited.**
- 9.32.022 Pyrotechnic composition device vendor permit.**
- 9.32.023 Permit fee--Conditions--Term.**
- 9.32.024 Sale to minors.**
- 9.32.025 Discharging fireworks.**
- 9.32.030 Discharging firearms.**
- 9.32.040 Firearms restricted in certain buildings.**
- 9.32.050 Violation--Penalty.**

9.32.010 Definition. In this section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

- A. Fuel or a lubricant;
- B. A firearm cartridge or shotgun shell;
- C. A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle;
- D. A match, cigarette lighter, stove, furnace, candle, lantern or space heater;
- E. A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion;
- F. A toy snake which contains no mercury;
- G. A model rocket engine;
- H. Tobacco and a tobacco product;
- I. A sparkler on a wire or wood stick not exceeding 36 inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate or perchlorate;
- J. A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture;
- K. A device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed 3 grams in total weight;
- L. A device that emits smoke with no external flame and does not leave the ground;
- M. A cylindrical fountain not exceeding 100 grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke;
- N. A cone fountain not exceeding 75 grams in total weight, designed to sit on the ground and emit only sparks and smoke. (Ord. 4738 §2, 1987; prior code §20.38[a]).

9.32.020 Prohibited. No person may possess, sell or use fireworks within the city. However, nothing in this section shall be construed to prohibit the city manager or city council from authorizing pyrotechnic displays of fireworks in parks and other public places, whenever so authorized by resolution of the council. Further, nothing in this section shall be construed to prohibit the lawful possession, custody or control of the above-named articles by wholesale dealers when held in transit, or for sale or delivery to places for lawful pyrotechnic displays. (Ord. 4738 §2, 1987).

9.32.022 Pyrotechnic composition device vendor permit. A. It shall be unlawful for any person, firm or corporation to sell any of the devices described in s. 9.32.010 F., I., J., K., L., M., and N., without first obtaining a permit from the city clerk. (Ord. 5414 §1, 1994).

9.32.023 Permit fee--Conditions--Term. A. The annual fee for a permit to sell pyrotechnic composition devices under s. 9.32.022 is as stated in the City of Eau Claire Fees and Licenses Schedule. The entire permit fee shall be charged for every license for the whole or fraction of a year, and shall be paid when application is made for such permit.

B. The city clerk shall provide appropriate permit forms, as approved by the fire department, and shall maintain adequate record of the issuance thereof.

C. The applicant shall particularly describe the location where the permit will be used and shall at all times publicly and continuously display such permit at such location. Such permit may be transferred to a new location upon payment of a transfer fee as stated in the City of Eau Claire Fees and Licenses Schedule.

D. All vendors shall comply with all local ordinances and federal and state regulations and statutes regarding the sale, transport or storage of flammable, explosive or hazardous materials. (Ord. 6363 §29, 2002; Ord. 6236 §1, 2001; Ord. 5414 §2, 1994).

* For statutory provisions prohibiting sale and use of fireworks, see WSA 167.10.

9.32.024 Sale to minors. It shall be unlawful for any person, firm or corporation to sell any type of pyrotechnic composition device, as described in section 9.32.010, subsections F, G, I, J, L, M, and N, to any minor under the age of 18 years. (Ord. 6691, 2006; Ord. 5437, 1994).

9.32.025 Discharging fireworks. No person shall discharge any fireworks within the city unless permitted under section 9.32.020. (Ord. 4738 §3, 1987).

9.32.030 Discharging firearms. A. For the purpose of this chapter, "firearms" means any rifle, shotgun, handgun, spring gun, pellet gun, air gun, bow and arrow device or any other weapon from which a shot is discharged by an explosive or propellant.

B. It is unlawful for any person to fire or discharge any type of firearm in the city. This section shall not apply to the following:

1. Law enforcement officers when acting in the normal course of their employment;
2. Any bona fide safety training course or practice firing held at a location approved by the chief of police or that person's designee, or other governmental agency;
3. Bow and arrow hunting of deer when it has been determined by the director of parks and recreation that such hunting is necessary for proper game management or to protect parks or other property. Additionally, a permit for such hunting must be issued by the chief of police stating that the activity would not pose a threat to health and safety in the area where such hunting shall take place.
4. Spearfishing carp or other rough fish by bow and arrow in any waters except Half Moon Lake, pursuant to NR 20.09, 20.20, and any other applicable Department of Natural Resources regulation.

The chief of police or that person's designee may also authorize other firing or discharge of firearms in the city under special circumstances, provided that it has been established that such conduct will not jeopardize the safety or welfare of the public. The decision of the chief of police shall be final. (Ord. 6545 §2, 2004; Ord 5266 §2, 1992; Ord. 4777, 1987; Ord. 4738 §1, 1987; Ord. 4488 §1, 1984; Ord. 4420 §1, 1984; Ord. 4327 §3, 1983; Ord. 4065 §3, 1980).

9.32.040 Firearms restricted in certain buildings. A. Definitions. The following definitions shall apply in the interpretation and the enforcement of this chapter:

1. "Firearm" means a weapon that acts by force of gunpowder.
2. "Law enforcement" means any person employed by the State of Wisconsin or any political subdivision of this state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce.
3. "Weapon" means a handgun, an electronic weapon as defined at Wis. Stats. §941.295, a knife other than a switchblade under Wis. Stats. §941.24, or a billy club.
4. "Controlled-access facility" means a facility or area that has designated entrances for ingress and egress controlled by a door, gate, attendant or other means to limit entry while the facility is open and can be locked or secured when closed, or in the instance of temporary events of less than three weeks, designated entrances may be either secured when closed or the controlled-access facility removed at the termination of the temporary event.

B. In addition to the provisions of Wisconsin Statutes enumerating places where the carrying of a weapon or a firearm is prohibited, including exceptions thereto, it shall be unlawful for any person other than a law enforcement officer or other City officer or official designated by the Eau Claire Chief of Police to enter the following City of Eau Claire municipal buildings, facilities or locations while carrying a weapon or a firearm:

1. City Hall;
2. L.E. Phillips Memorial Public Library;
3. Fire Stations;
4. Police Station;
5. Fairfax Park Pool;
6. Carson Park football, softball, and baseball stadiums and facilities;
7. Chippewa Valley Museum and related buildings within Carson Park;
8. Paul Bunyan Museum and related buildings within Carson Park;

9. Streets Maintenance, Transit, and Recreation and related buildings along Forest Street;
10. City wells, pump houses, and all related buildings;
11. Hobbs Ice Center and all-season enclosed shelters at neighborhood parks;
12. Transit transfer station;
13. Park Tower and Owen Rust Memorial Apartments, and such other buildings or facilities as designated by the Housing Authority;
14. Wastewater treatment plant, lift stations, and related buildings; and
15. Any and all other municipal buildings or controlled-access facilities owned or operated by the City of Eau Claire, whether now in existence or later constructed or leased excepting Phoenix Park trailhead, restrooms, and Farmer's Market pavilion, Owen Band Shell, park pavilions in Carson Park and other similar open-sided structures in various locations.

C. It shall be unlawful for any person other than a law enforcement officer to enter any building, facility, or location open to the public that is posted as a no firearms or concealed weapons location while possessing, carrying, or concealing a firearm or weapon, whether with or without a state permit.

D. Signs meeting the requirements of Wis. Stats. § 943.13(2)(bm)1 shall be posted in prominent places near public entrances of all buildings, structures or locations that restrict or prohibit firearms or concealed weapons.

E. 1. Signs of at least 5 inches by 7 inches in size shall be posted in prominent places near public entrances to all licensed premises selling alcohol for on-premise consumption to advise patrons that:

a. Firearms are prohibited on such premises except with a valid concealed weapons permit pursuant to Wis. Stats. § 941.237(2);

b. Those with such a permit cannot be served alcohol if carrying a concealed weapon pursuant to Wis. Stats. § 941.237(3)(cx).

2. Licensees that prohibit all firearms and concealed weapons on the premise and post signs complying with sub D. above shall be exempt from this requirement.

3. The City Clerk shall have signs meeting these requirements produced and available for licensees by November 1, 2011, and for new licensees thereafter. Licensees shall post such signs or signs substantially similar of comparable size, font, and content.

F. Any person violating any of the provisions of this Section shall, upon conviction thereof, forfeit not less than \$100 nor more than \$500, plus court and other costs, for each separate violation, and shall further be subject to penalty for trespass under § 943.13 Wis. Stats. (Ord. 6984, 2011; Ord. 4921, 1989; Ord. 4738 §1, 1987; Ord. 4488 §2, 1984; Ord. 4420 §2, 1984; Ord. 4327 §4, 1983).

9.32.050 Violation--Penalty. Any person violating any of the provisions of this chapter shall, upon conviction thereof, forfeit not less than one dollar nor more than two hundred dollars together with costs of prosecution, and upon failure to pay the same shall be confined in the county jail for not more than thirty days. (Ord. 4738 §1, 1987; Ord. 4327 §5, 1983; prior code §20.39).

Chapter 9.35

OCCUPANCY

Sections:

9.35.010 Occupancy requirements.

9.35.020 Unlawful to overpopulate buildings.

9.35.030 Unlawful use of placard.

9.35.040 Enforcement.

9.35.050 Violation--Penalty.

9.35.010 Occupancy requirements. A. The occupancy limit determined by the city of Eau Claire inspections division shall be the maximum number of people allowed in a building or structure, or

9.76.110 Parks—Fires and Hazardous activities prohibited. A. The following special rules and regulations are in addition to other regulations in this code and any rules established by the director of parks and recreation to govern conduct and maintain public safety and enjoyment of city parks, playgrounds, public green space, trails and pools.

B. No person shall engage in any of the following, except in designated areas and when appropriate in conformity with such safety conditions established by the director of parks and recreation or, for special events, in conformity with Ch. 9.59, a safety plan, and such other special conditions as approved by the city council;

1. Ignite or maintain a fire or open flame except if fully contained in metal grills in picnic areas or fire rings installed by the City;
2. Fly or operate a model engine-powered airplane or other radio controlled device;
3. Shoot or discharge an air rifle, firearm, bow, paint ball gun, air soft gun, or other like device, except as a lawful act of self-defense;
4. Hit a hard ball, such as a baseball or golf ball, except in a ball field, driving range, or grounds specifically established for such purpose; and
5. Operate or park a motorized vehicle on any park land unless designated as a park drive, roadway, parking area or temporary parking area. A temporary parking area may be established by the director of parks and recreation and designated by signs. (Ord. 7051, 2013; Ord. 3336 §1(part), 1973; Prior code §13.055(d)).

9.76.120 Parks--Wildlife. No person shall kill, injure, harm, worry or trap any fur-bearing animal, snake, frog, toad or bird, including water fowl, in any park or within Half Moon Lake or any other navigable water within the city, or destroy, injure or harm the dens, nest or nest contents of said creatures. This section shall not apply to any such activity when undertaken by, or with the permission of, the director of parks and recreation solely for the necessary and proper management of game and wildlife or to protect the parks or other property. (Ord. 3730, 1977; Ord. 3336 §1(part), 1973; Prior code §13.055(e)).

9.76.130 Parks--Camping. No person shall establish or maintain any temporary or permanent camp or other lodging place in any park except by prior permission of the city council. (Ord. 3336 §1(part), 1973; Prior code §13.055(f)).

9.76.140 Parks--Swimming. No person shall swim in any area other than those designated as public swimming areas and only during such hours as specified. (Ord. 3336 §1(part), 1973; Prior code §13.055(g)).

9.76.150 Parks--Dogs and horses. Dogs shall be restrained at all times and shall not be permitted to run at large. Horses shall be permitted only on roadways or pathways in parks designated by the director of parks and recreation for such purpose. (Ord. 3336 §1(part), 1973; Prior code §13.055(h)).

9.76.165 Parks--Intoxicants. A. No person shall possess or consume any fermented malt beverage, as defined in Section 125.02(6) of the Wisconsin Statutes, or intoxicating liquor, as defined in Section 125.02(8) of the Wisconsin Statutes, in any park other than Carson Park, Lower Mount Simon Park, Riverview Park, or Rod and Gun Park. The city council may, by resolution, limit or prohibit the possession or consumption of fermented malt beverages or intoxicating liquor within all or any part of Carson Park, Lower Mount Simon Park, Riverview Park or Rod and Gun Park during such times as are specified by the council.

B. No person or group of persons may possess any receptacle containing fermented malt beverages in excess of one gallon in volume in any city park without first securing a permit from the director of parks and recreation or that person's designee. Denial of such a permit may be appealed to the city council.

C. 1. A person may possess or consume any fermented malt beverage, as defined in Section 125.02(6) of the Wisconsin Statutes, or intoxicating liquor, as defined in Section 125.02(8) of the Wisconsin Statutes, in Phoenix Park, only within the amphitheater or pavilion, and only during times when an event is occurring that has been approved by the director of parks and recreation. No person or group may possess any receptacle containing a fermented malt beverage or intoxicating liquor in excess of one gallon within the amphitheater or pavilion in Phoenix Park.

2. A person may possess or consume any fermented malt beverage, as defined in Section 125.02(6) of the Wisconsin Statutes, or intoxicating liquor, as defined in Section 125.02(8) of the Wisconsin Statutes, in the Phoenix Park pavilion if a license is issued under s. 9.76.100 or if a permit is issued under subsection B.

3. Possession of said intoxicants shall be further limited to the hours of 11:00 a.m. to sunset. (Ord. 6755 §1, 2007; Ord. 5345, 1993; Ord. 5263, 1992; Ord. 4627 §5, 1986; Ord. 4404 §2, 1980; Ord. 3769, 1977).

9.76.167 Parks--Hours. All parks, including all parking lots and park drives therein, excepting public streets, shall remain open daily to the public only between the hours of four a.m. and eleven p.m. of each day, and the director of parks and recreation is authorized to post appropriate signs giving notice thereof. It is unlawful for any person, other than city personnel conducting city business therein, to occupy or be present in a park during the hours the park is not open to the public. Such prohibition shall not apply to athletic facilities, regularly scheduled athletic events authorized and approved by the director of parks and recreation, or to public celebrations or events authorized or sponsored by the city. (Ord. 4044 §3, 1980).

9.76.170 Parks--Assemblies. No person shall in any park, conduct himself in such a manner so that the peace and tranquility of others is disturbed due to unreasonable and excessive noise. The director of parks and recreation shall be notified a reasonable period of time in advance by a representative of any group of more than one hundred persons preparing to assemble in any park. (Ord. 3336 §1(part), 1973; Prior code §13.055(j)).

9.76.175 City swimming pool--Presence after hours. It shall be unlawful for any person to occupy or be present in the enclosed pool areas of the city swimming pool site during the hours that the facility is closed. Such prohibition does not apply to city employees engaged in city business or to other persons who have the approval of the director of parks and recreation, the pool manager or those persons' designee. (Ord. 5136 §1, 1991).

9.76.180 Penalties for violation of Sections 9.76.010 through 9.76.175. Any person violating any of the provisions of Sections 9.76.010 through 9.76.175 shall, upon conviction, forfeit not less than \$20 nor more than \$500, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail for Eau Claire County until said forfeiture and costs are paid, but not to exceed ninety days. (Ord. 5136 §2, 1991; Prior code §13.071).

